

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

GLENN FRANKLIN HICKS,)	
)	Civil Action No. 2: 15-cv-01606
Plaintiff,)	
)	United States District Judge
v.)	David S. Cercone
)	
TAMMY FERGUSON and THE)	United States Magistrate Judge
ATTORNEY GENERAL OF THE)	Cynthia Reed Eddy
STATE OF PENNSYLVANIA,)	
)	
Defendants.		

REPORT AND RECOMMENDATION

I. RECOMMENDATION

For the reasons that follow, it is respectfully recommended that the Motion to Dismiss Petition for Writ of Habeas Corpus (ECF No. 15) be granted due to Petitioner's death during the pendency of this action.

II. REPORT

On December 8, 2015, Petitioner Glenn Franklin Hicks, a Pennsylvania state prisoner, filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. The Petitioner asserts a challenge to his convictions entered in the Court of Common Pleas of Allegheny County at Criminal Case No. CP-02-CR-0006075-2009.

Respondents filed the instant Motion informing the Court that they were informed by Petitioner's former counsel that Petitioner expired on July 18, 2016 and that Respondents have further confirmed this information with the Records Department at SCI-Benner. *See* Exhibit 1 to Motion (ECF No. 15-1).

Based upon this information, the Court will take judicial notice of the fact that Petitioner, Glenn Franklin Hicks is, in fact, deceased. Pursuant to Federal Rule of Evidence 201, judicial

notice may be taken of a fact that is “not subject to reasonable dispute because it: (1) is generally known within the trial court’s territorial jurisdiction; or (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” Fed.R.Evid. 201(b). The instant 28 U.S.C. § 2254 Petition does not survive his death. *Keitel v. Mazurkiewicz*, 729 F.3d 278, 280 (3d Cir. 2013). Consequently, the motion to dismiss should be granted and the Petition should be dismissed as moot due to Petitioner’s death during pendency of this action.

II. CONCLUSION

For the foregoing reasons, it is respectfully recommended that the Motion to Dismiss (ECF No. 15) be granted and the Petition for Writ of Habeas Corpus be dismissed as moot due to Petitioner’s death during pendency of this action and that this case be closed.

s/ Cynthia Reed Eddy
Cynthia Reed Eddy
United States Magistrate Judge

Dated: August 4, 2016

cc: GLENN FRANKLIN HICKS
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S.C.I. Benner Township
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(via U.S. First Class Mail)

Cory J. Schuster
Keaton Carr
Office of the District Attorney of Allegheny County
(via ECF electronic notification)